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Attorneys for Plaintiff
UNIVERSITY OF PITTSBURGH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Case No. CV 08-02973 MMC

UNIVERSITY OF PITTSBURGH OF THE
COMMONWEALTH SYSTEM OF HIGHER
EDUCATION d/b/a UNIVERSITY OF
PITTSBURGH

Plaintiff,

v.

VARIAN MEDICAL SYSTEMS, INC.

Defendant.

**STIPULATION AND ~~PROPOSED~~
ORDER GRANTING PLAINTIFF'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF A
DOCUMENT TO UNIVERSITY OF
PITTSBURGH'S REQUEST FOR
JUDICIAL NOTICE ISO OF ITS
OPPOSITION TO VARIAN MEDICAL
SYSTEM INC.'S MOTION TO DISMISS.**

1 WHEREAS, Defendant Varian Medical Systems, Inc. filed under seal a Memorandum in
2 Support of Defendant Varian Medical Systems, Inc.'s Motion for Summary Judgment for Lack of
3 Standing, Or in the Alternative, Motion for a Preliminary Hearing on the Issue of Standing
4 ("Varian's SJ Brief") on November 21, 2007, Docket No. 128, in the Western District of
5 Pennsylvania action, Case No. 07-0491.

6 WHEREAS, Varian's SJ Brief contains information from documents that were designated as
7 Confidential Attorney Eyes Only by University of Pittsburgh pursuant to the Protective Order
8 (Docket No. 29, as amended Docket No. 331) entered in the Western District of Pennsylvania action,
9 Case No. 07-0491.

10 WHEREAS, Defendant Varian Medical Systems, Inc. has filed in this Court Defendant
11 Varian Medical Systems, Inc.'s Notice of Motion and Motion to Dismiss Plaintiff's Claims Pursuant
12 to Fed. R. Civ. P. 12(b)(6) Based on Doctrine of Res Judicata; Memorandum of Points and
13 Authorities in Support Thereof, Docket No. 50, on July 23, 2008.

14 WHEREAS, Plaintiff University of Pittsburgh intends to file an opposition to Defendant's
15 Motion to Dismiss Plaintiff's Claims Pursuant to Fed. R. Civ. P. 12(b)(6) Based on Doctrine of Res
16 Judicata.

17 WHEREAS, Plaintiff University of Pittsburgh intends to file a Request for Judicial Notice in
18 Support of Its Opposition to Varian's Motion to Dismiss.

19 WHEREAS, Plaintiff University of Pittsburgh seeks to file under seal confidential portions
20 of Varian's SJ Brief as an exhibit to its request for judicial notice.

21 THEREFORE, Plaintiff University of Pittsburgh, by and through its attorneys, hereby request
22 that the Court order to be filed under seal the portions of Varian's SJ Brief indicated in Plaintiff's
23 Administrative Motion to File Under Seal Portions of a Document to University of Pittsburgh's
24 Request for Judicial Notice ISO Its Opposition to Varian Medical Systems, Inc.'s Motion to
25 Dismiss, and Varian Medical Systems, Inc., by and through its attorneys, consent to entry of such an
26 order.

1 Dated: August 15, 2008

DANIEL JOHNSON, JR.
RITA E. TAUTKUS
MORGAN LEWIS & BOCKIUS LLP

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4 By: /s/ Rita E. Tautkus

5 Rita E. Tautkus
6 Attorneys for Plaintiff
UNIVERSITY OF PITTSBURGH

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8
9
10 Dated: August 15, 2008

WILLIAM L. ANTHONY
MATTHEW H. POPPE
ZHENG LIU
ORRICK, HERRINGTON & SUTCLIFFE LLP

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12
13
14 By: /s/ Zheng Liu

15 Zheng Liu
16 Attorneys for Defendant
VARIAN MEDICAL SYSTEMS, INC.

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18 Pursuant to General Order No. 45, Section X(B) regarding signatures, I, Rita E. Tautkus,
19 attest that concurrence in the filing of this document has been obtained from each of the other
20 signatories. I declare under penalty of perjury under the laws of the United States of America that
21 the foregoing is true and correct. Executed this 15th day of August, 2008, at San Francisco,
22 California.

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24 /s/ Rita E. Tautkus
25 Rita E. Tautkus
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ORDER

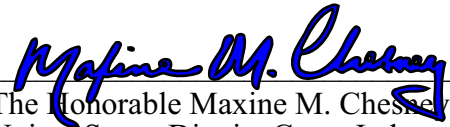
Upon good cause shown, IT IS HEREBY ORDERED that Plaintiff's Administrative Motion to File Under Seal Portions of a Document is GRANTED as follows:

The portions of Exhibit 2 to University of Pittsburgh's Request for Judicial Notice in Support of Its Opposition to Varian Medical Systems Inc.'s Motion to Dismiss Under Fed. R. Civ. P. 12(b)(6) identified by University of Pittsburgh as sealable in the document lodged with the Clerk in a sealed envelope labeled "DOCUMENT SUBMITTED UNDER SEAL" in connection with its request for judicial notice SHALL be filed UNDER SEAL by the Clerk.

Plaintiff is hereby DIRECTED to file in the public record, no later than August 22, 2008, a redacted version of Exhibit 2.

IT IS SO ORDERED.

Dated: August 19, 2008


The Honorable Maxine M. Chesney
United States District Court Judge